

**COFFMAN SPECIALTIES, INC.****GENERAL AND ENGINEERING CONTRACTORS**

October 5, 2015

John C. McMillan, Deputy Division Chief
Office Engineer
California Dept. of Transportation
P.O. Box 168041, MS-43
Sacramento, CA 95816-8041

Sent via facsimile: 916 227-6282
and e-mail: john.mcmillan@dot.ca.gov

Re: Caltrans Contract #11-2T1904
Protest of Award of Contract to LB Civil Construction, Inc.

Dear Mr. McMillan:

Coffman Specialties, Inc. ("Coffman") protests the Department of Transportation's ("Caltrans") impending award of the above referenced Contract to LB Civil Construction, Inc. ("LB Civil") rather than to Coffman, the lowest bidder. Coffman's low bid was responsive, and Caltrans must award to Coffman if at all. However, Caltrans appears to be processing award of the Contract to LB Civil, in violation of California public bidding law.

Coffman submitted a fully responsive bid on opening day, September 3, 2015, for the total contract amount of \$9,285,000.00. LB Civil was the second low bidder with a bid amount nearly \$700,000 higher than Coffman's. Caltrans' Contract Awards Status Result web page reveals Caltrans chose LB Civil as its intended awardee by or before September 7th,¹ yet Caltrans delayed notifying Coffman of its determination of Coffman's bid as "nonresponsive" until September 24, 2015.

Caltrans asserts Coffman's bid is nonresponsive because it allegedly "did not provide percentages" in the Subcontractor List for 4 Bid Items, although Coffman did provide percentages for every Bid Item listed. Caltrans' erroneous determination is the subject of Coffman's protest dated October 1, 2015. Not only did Caltrans wrongly disqualify Coffman's bid; Caltrans cannot award to LB Civil because LB Civil's bid was not responsive to the bid instructions. Section 2-1.10 of the Revisions applicable to the 2010 Standard Specifications required submission of the Subcontractor List as follows:

2-1.10 SUBCONTRACTOR LIST

On the Subcontractor List form, list each subcontractor to perform work in an amount in excess of 1/2 of 1 percent of the total bid or \$10,000, whichever is greater (Pub Cont Code § 4100 et seq.)

For each subcontractor listed, the Subcontractor List form must show:

1. Business name and the location of its place of business.
2. California contractor license number for a non-federal-aid contract.
3. Public works contractor registration number

¹ Caltrans requested Funding Certification on Sept. 7, 2015. Caltrans' Office Engineer's website for award status describes "Funding Certification" as: "Once we have determined a low bidder, we begin an analysis that determines how much of the allocated funding will need to be used to award the contract, and in the case of projects where funding has multiple fund sources, we determine what portion of each allocation will go toward paying for construction." Thus, Caltrans decided Coffman would not be awarded the Contract at least 17 days before notifying Coffman of its finding.



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4. Portion of work it will perform. Show the portion of the work by:
- 4.1. **Bid item numbers** for the subcontracted work
 - 4.2. Percentage of the subcontracted work for **each bid item listed**
 - 4.3. Description of the subcontracted work if the percentage of the **bid item listed** is less than 100 percent

(Bold emphasis added.) These instructions expressly direct bidders their Subcontractor List "must show... Bid item numbers" for subcontracted work. It also requires "each bid item" be listed. The plain meaning of Section 2-1.10 is that each and every separate bid item number must be listed on the form. The form itself is set up for bidders to insert a separate bid item number in each row:

Item	%	Description

LB Civil did not list "each bid item" in the Subcontractor List. Rather, on several occasions, it wrote sets of numbers on a single row. For instance, under Diversified Landscape, LB Civil wrote:


Item	%	Description
48-78	100	

(See relevant portions of LB Civil's bid, Attachment "1.") This manner of designating subcontracted Item numbers fails to comply with the bid instructions. On its face, the Subcontractor List is nonresponsive because each separate Bid Item number is not listed in the document.

Filling in the form in this way leaves the bid ambiguous by not clearly and expressly listing each and every Bid Item. By writing "48-78," the bidder may be indicating Diversified will perform Items 48 and 78, or Items 48 and 78 and some of the Item numbers between. By not expressly listing "each" Bid Item number separately, its bid is unclear and does not follow the direction of the bid instructions. After bid opening, LB Civil could subcontract any unspecified Bid Item to another subcontractor at a lower cost or self-perform it, because it did not include it in the List. Thus, such method of filling out the List is a short-cut that leaves its bid questionable and gives the bidder an unfair advantage over other bidders who took the time to follow instructions and write each Bid Item number separately.

Caltrans' request to award to LB Civil although it did not completely fill in the bid form is contrary to Caltrans' own procedures. Its eagerness to overlook this omission while disqualifying Coffman's lower bid (which followed all bid instructions) suggests favoritism. We request Caltrans immediately cease processing award of the Contract to LB Civil and properly award the Contract to the low bidder, Coffman Specialties.

Very truly yours,



Angela J. Soldner
General Counsel

Encl.

CALTRANS
STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION
BID FOR

11

ALC

CONSTRUCTION ON STATE HIGHWAY IN
SAN DIEGO COUNTY IN SAN DIEGO FROM ADAMS AVENUE OVERCROSSING TO CAMINO
DEL RIO SOUTH UNDERCROSSING
In District 11 on Route 15

UNDER

Notice to Bidders and Special Provisions dated July 13, 2015
Project plans approved May 26, 2015
Standard Specifications dated 2010
Standard Plans dated 2010

Identified by

Contract No. 11-2T1904

11-SD-15-M5.6/R6.0

Project ID 1100020291

FEDERAL-AID PROJECT
ATPL-6211(129)

Bids open Thursday, September 3, 2015

Dated July 13, 2015

AADD

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION

Contract No.: 11-2T1904 Project ID: 1100020291

Bidder Name: LB Civil Construction, Inc.

Bidder ID: VC00000100561

DES-OE-0102.2C (REV 03/2015)

Bidding Firm: LB Civil Construction, Inc.

List this sub? Yes

1) Business Name Solid Structures Inc

Location City La Mesa State CA

California Contractor License Number 758791

Public Works Contractor Registration Number 1000015100

Portion of Work Subcontracted:

Item #	Description
93 80	Form/Pour/Strip/Finish Minor Structures
120 100	Miscellaneous Iron and Steel

List this sub? Yes

2) Business Name Avar Construction, Inc

Location City Fremont State CA

California Contractor License Number 906815

Public Works Contractor Registration Number 1000002298

Portion of Work Subcontracted:

Item #	Description
89 100	
96 100	

List this sub? Yes

3) Business Name Diversified Landscape Co

Location City Wildomar State CA

California Contractor License Number 576183

Public Works Contractor Registration Number 1000009249

Portion of Work Subcontracted:

Item #	Description
14,15,27 100	
48-78 100	

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION

Contract No.: 11-2T1904 Project ID: 1100020291

Bidder Name: LB Civil Construction, Inc.

Bidder ID: VC00000100561

DES-OE-0102.2C (REV 03/2015)

Bidding Firm: LB Civil Construction, Inc.

List this sub? Yes

4) Business Name High-Light Electric

Location City Riverside State CA

California Contractor License Number 806335

Public Works Contractor Registration Number 1000002760

Portion of Work Subcontracted:

Item #	Description
144-150 100	

List this sub? Yes

5) Business Name A.C. Dike Co

Location City Lincoln State CA

California Contractor License Number 407417

Public Works Contractor Registration Number 1000005929

Portion of Work Subcontracted:

Item #	Description
84 100	

List this sub? Yes

6) Business Name Calmex Engineering

Location City Bloomington State CA

California Contractor License Number 685954

Public Works Contractor Registration Number 1000005380

Portion of Work Subcontracted:

Item #	Description
81-83 100	
85-86 100	

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION
Contract No.: 11-2T1904 Project ID: 1100020291
Bidder Name: LB Civil Construction, Inc. Bidder ID: VC0000100561
DES-OE-0102.2C (REV 03/2015)

Bidding Firm: LB Civil Construction, Inc.

List this sub? Yes

7) Business Name Atlas Fence Company
Location City Chula Vista State CA
California Contractor License Number 176374
Public Works Contractor Registration Number 1000001986
Portion of Work Subcontracted:

Item #	Description
25 100	
121 100	
122 100	
125 100	
127 100	

List this sub? Yes

8) Business Name Southwest V-Ditch Inc
Location City Riverside State CA
California Contractor License Number 569779
Public Works Contractor Registration Number 1000004410
Portion of Work Subcontracted:

Item #	Description
116 100	

List this sub? Yes

9) Business Name Payco Specialties, Inc
Location City Chula Vista State CA
California Contractor License Number 298637
Public Works Contractor Registration Number 1000003515
Portion of Work Subcontracted:

Item #	Description
1 100	
6,22,28,29 100	
137-143 100	

STATE OF CALIFORNIA DEPARTMENT OF TRANSPORTATION

Contract No.: 11-2T1904 Project ID: 1100020291

Bidder Name: LB Civil Construction, Inc.

Bidder ID: VC0000100561

DES-OE-0102.2C (REV 03/2015)

Bidding Firm: LB Civil Construction, Inc.

List this sub? Yes

13) Business Name ACL Construction

Location City Ontario State CA

California Contractor License Number 468840

Public Works Contractor Registration Number 1000008098

Portion of Work Subcontracted:

Item #	Description
129-136 49	Form/Place/Finish Only

**COFFMAN SPECIALTIES, INC.**
GENERAL AND ENGINEERING CONTRACTORS**FAX TRANSMISSION**DATE: October 5, 2015Contract No. 11-2T1904SUBJECT: Bid Protest**TRANSMIT THE FOLLOWING COPIES TO:**NAME: Mike McMillanCOMPANY: Caltrans Office EngineerFAX NUMBER: (916) 227-6282TOTAL NUMBER OF PAGES 7 INCLUDING TRANSMITTAL SHEET.

ORIGINAL TO FOLLOW VIA US MAIL

MESSAGE OR SPECIAL INSTRUCTIONS:

Please see the attached correspondence.

IF TOTAL NUMBER OF PAGES ARE NOT RECEIVED, PLEASE CALL OUR OFFICE AT (858) 536-3100

SIGNED: Angela J. Soldner, Esq.

CC: _____

9685 Via Excelencia, Suite 200 San Diego, California 92126 (858) 536-3100 Fax No. (858) 536-3131

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